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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 09/902,750

Confirmation No. 9605

In re application of:

Group Art Unit: 1661

Robert Noodelijck

Examiner: Ann Marie Grünberg

Filed: July 12, 2001

For: CHRYSANTHEMUM PLANT NAMED 'CREAM ELITE REAGAN'

REPLY TO REQUIREMENT FOR INFORMATION UNDER 37 CFR 1.105

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicant replies to the Requirement for Information under 37 CFR 1.105 mailed May 25, 2005 as follows:

As to parts a) and b) of the requirement, enclosed is a copy of the 2000 version of the CBA catalog first distributed in November 1999. The enclosure includes a page displaying 'CREAM ELITE REAGAN'. The Examiner will note that the variety is called 'Reagan Elite Cream' in the catalog. Application submits that the catalog is not a publication of the plant per se. In re LeGrice, 133 USPQ 365 (CCPA 1962).

As to part c) of the requirement, PBR documents for the variety were registered in the Netherlands and the CPVO. As

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explained in correspondence in other cases (see, for example, the comments in the Reply to Requirement for Information Under 37 CFR 1,.105 filed May 31, 2005 in application Serial No. 09/562,283), it is necessary for one to learn the parentage of the plant to be able to propagate the plant; such information is not available at the Dutch office (information is given out to third parties when the registrant gives permission to do so; CBA does not grant such permission) and becomes available at the CPVO after publication of the correct denomination. Here, that the date of correct denomination publication is December 15, 2002; see the enclosed copy of a June 23, 2005 letter to the Examiner from the CPVO. The publication of the denomination took place at a date subsequent to the filing date of the instant application, namely July 12, 2001. Thus, access to critical information regarding the plant was not available until after the case was filed.

As to part d) of the requirement, applicant points out that one would not have been able to practice the invention lacking information about the parentage of the variety and that such information would not have been available until after the instant case was filed. There are no acts precluding patentability here.

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Favorable treatment of the application is earnestly solicited.

Respectfully submitted,

STEPTOE & JOHNSON LLP


Charles A. Wendel

Registration No. 24,453


Date

CAW/ch

Enclosure:

Pages from 2000 CBA Catalog
Copy of June 23, 2005 letter
From CPVO to Examiner

Atty Docket: 28967.0111

STEPTOE & JOHNSON LLP
1330 Connecticut Ave., N.W.
Washington, D.C. 20036
(202) 429-6415

CATALOGUE



2000



**SPRAY CHRYSANTHEMUM • SANTINI • DISBUD
POT CHRYSANTHEMUM • MULTIFLORA • UNIFLORA**

SPRAY CHRYSANTHEMUM

WHITE

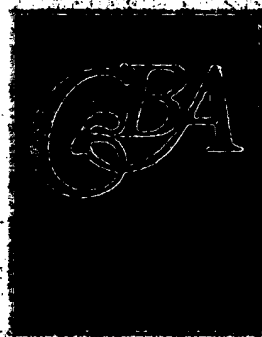
ANEMONE	NEW	REPORT	7	WHITE		GREEN	01-32
		REFOUR	7.5	WHITE		WHITE	01-32
		RELINDA	7.5	WHITE	CT	GREEN	01-32
		REWINNER	8	WHITE	CT	GREEN	50-36
DAISY	NEW	REWING	7	WHITE		GREEN/WHITE	01-34
		REBLANCHE	7	WHITE		GREEN	01-35
		REAGAN MUNDO WHITE	7	WHITE	CT	GREEN	01-52
		REAGAN ELITE WHITE	7	WHITE		GREEN	01-52
DECORATIVE	NEW	REAGAN WHITE	7.5	WHITE		GREEN	01-52
		RESPECTFUL	8	WHITE		YELLOW/GREEN	01-52
		REBONNET	6.5	WHITE		WHITE	50-36
		REVEAL	7	WHITE		WHITE/GREEN	01-52
SPIDER	NEW	RECITAL	8	WHITE		WHITE	50-32
		REFLECT	8	WHITE		WHITE	01-36
		REFORM	8.5	WHITE	CT	WHITE	01-52

YELLOW • CREME

ANEMONE	NEW	REQUIRE	7	YELLOW		YELLOW	01-35
		REACTION	7.5	YELLOW	CT	YELLOW	01-52
		RELINDA SUNNY	7.5	YELLOW	CT	GREEN	01-32
		REMCO YELLOW	7.5	YELLOW	CT	RED	50-32
DAISY	NEW	REGATTA	8	YELLOW		GREEN	01-32
		RECOTTA YELLOW	6.5	YELLOW		GREEN	01-35
		LUCKY LION CREAM	6.5	CREAM		GREEN	01-52
		LUCKY LION	6.5	YELLOW		GREEN	01-52
DAISY	NEW	LUCKY LION SUNNY	6.5	YELLOW	DARK	GREEN	01-32
		REAGAN CREAM	7.5	YELLOW	CREAM	GREEN	01-52
		REAGAN ELITE CREAM	7	YELLOW	CREAM	GREEN	01-52
		REAGAN GOLDEN	7.5	YELLOW	GOLDEN	GREEN	01-52
DAISY	NEW	REAGAN LEMON	7.5	YELLOW	LEMON	GREEN	01-52
		REAGAN MUNDO YELLOW	7.5	YELLOW		CT GREEN	01-52
		REAGAN SULPHUR	7.5	YELLOW	LIGHT	GREEN	01-52
		REAGAN SUNNY	7.5	YELLOW	DARK	GREEN	01-52
DAISY	NEW	REAGAN YELLOW	7.5	YELLOW		GREEN	01-52
		REYELLOW	8	YELLOW	DARK	GREEN	01-52
		VYKING	8	YELLOW	DARK	BROWN	01-36
		VYSTAR IMPROVED	8.5	YELLOW	ORANGE	GREEN	01-52
DAISY	NEW	REGOLTIME	9	YELLOW	DARK	GREEN	01-52
		VYRON	9	YELLOW	ORANGE	CT BROWN	01-52
SPIDER	NEW	REGIRO	7	YELLOW		YELLOW/GOLDEN	01-35
		REPULSE YELLOW	8	YELLOW		GREEN	05-32

PINK • VIOLET • PURPLE • SALMON • APRICOT • CHERRY

ANEMONE	NEW	REMCO APRICOT	7.5	APRICOT		ORANGE/RED	50-32
		REMCO LILAC	7.5	PINK	LIGHT	RED/PURPLE	50-32
		REAGAN ELITE	7	PINK		GREEN	01-36
		REMERO	7.5	PINK/WHITE TIP		GREEN	01-52
DAISY	NEW	REAGAN PEACH	7.5	APRICOT	DARK	GREEN	01-52
		REAGAN SPLENDID	7.5	PURPLE	LIGHT	GREEN	01-52
		REAGAN SPLENDID DARK	7.5	PURPLE	DARK	GREEN	01-52
						GREEN	01-52



THE ART OF BREEDING

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European Union
Community Plant Variety Office

Mrs. Anne-Marie Grunberg

United States Dept. of Commerce
Patent and Trademark Office
Commissioner for Patents
P.O. Box 1450
Alexandria
Virginia 22313-1450
USA

Our ref: rc/jm/50033y

Subject: **Observation to a submitted variety denomination**

Denomination

Cream Elite Reagan

Species

Chrysanthemum

Applicant (name and address)

Chrysanthemum Breeders Association
(the Netherlands)

Bulletin

Denomination proposed on 28th July 2000
according to the UPOV CD ROM no.
2/2005.

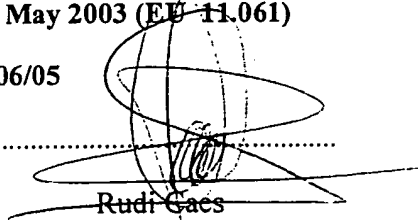
Observation

Please be informed that the information
contained in the UPOV CD ROM is
incorrect. This denomination (2000/1172)
was **proposed on 1st August 2002**,
published on 15th December 2002 and
the variety was **granted European plant
variety rights** under this denomination on
5th May 2003 (EP 11.061)

Date

23/06/05

Signature


Rudi Caes

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